

To place my comments on the Topic head "Presidential Power and Local Government", in the proper context, the following 5 statements have to be made first:-

- 1) Act 21 of 1990, the Municipal Corporations Act 1990, **make 24 references to the power of the President in its administration** and although the word "President" was not described in the Interpretation Section, Part 1 of the said Act, we can confirm with reasonable certainty, that we mean the President of the Republic of Trinidad and Tobago, in office at the time and **6 references to the power of the Minister**, meaning the member of Cabinet to whom responsibility for Local Government has been assigned.
- 2) 28 years ago, in 1995, I made the decision to participate more fully in our democratic system of Government, by getting more involved during our Electoral Periods, either through Partisan or Independent Politics and after then, into Developmental Politics, hoping that my closeness to the system will allow me to impact more positively on the Goal of **Best Practice Democracy** and the **Nation Building Sustainable Development** efforts, admired and sought by so many of our citizens and as such, my last such participation, was contesting the Bagatelle/Blue Basin Electoral District vacancy, in the Local Government Elections of the 28<sup>th</sup> of November 2016. Having gained 25% of the total votes cast, which was 500 out of 2000, out of an Electorate of 9,455 persons and still not receiving my deposit of 2,000TT dollars, which by law has to be returned, once a Candidate receives 12% of the total votes cast, places a question mark on the operations of the Election and Boundaries Commission. Already there are queries to be made on this State entity modus operandi during that Election and a solution may be readily available here, by using our Freedom of Information Act, to clarify what the law dictates, in some of my queries, including the way that money deposit has to be returned and any practice, procedure and policy guiding the return of said deposits.
- 3) That being said and although I was not elected to be the Councillor for 3 years, **the ethical composition of my character and my personal commitment to the sustainable development of beloved Trinidad and Tobago**, demands that I provide a service to; in the first instance, the 496 persons, including any spoilt votes which may have come my way, who voted for me and requested my attention, to and in the development of the Electoral District of Bagatelle/Blue Basin and in the second instance, all of the 1,496 persons voting on the 28<sup>th</sup> November 2016 for Joey Lewis, the elected Councillor and finally, the rest of the nonvoting 9,455 electorate and the remaining 101,162 persons, making up the population of the Region of Diego Martin, minus its Electorate.

4) That being said, I attended 18 of the Diego Martin Regional Corporation Statutory Meetings to date, **participating in the Council discussion at Public Discussion Time, on the Agenda, every time since.** Unfortunately, the meetings in May and June had to be missed, as I attended the 10th Gathering of ParlAmericas, hosted by Trinidad and Tobago Parliament on the Wednesday 23<sup>rd</sup> of May 2018 and the Ministry of Social Development and Family Services, National Consultation on the Family at the UWI Conference Centre and Inn on the Wednesday 27<sup>th</sup> of June 2018, two very important occasions for participating in **Nation Building sustainable Development at other levels.**

5) There is a misconception in the Chamber, when I am referenced as "**an invited guest**", which is mentioned here for all who are willing to be so advised. Part II, of Act 21 of 1990, Constitution and Government of Municipal Corporations, Section 8, subsection (1) authorises me, with the use of the action word "**shall**" as an **elector** of the Region to be part of the **constitution** of the **Diego Martin Regional Corporation**, quoted here for ease of reference, "**The Mayor, Aldermen, Councillors and electors of each of the municipalities referred to in paragraphs (a) to (e) of section 5(1) and each town, district or place to which this Act is applied pursuant to section 5(2), shall be a body corporate bearing the corporate name mentioned in the First and second schedule, or in the order made under section 5(2), as the case may be; and by such name have perpetual succession**", unquote. Interpretation of **Corporation** is similar to this section.

Consequently, in normal preparation mode, before attending the 20<sup>th</sup> Statutory meeting of the Diego Martin Regional Corporation, on Wednesday the 25<sup>th</sup> day of July 2018, I called to find out if a **Corporation Secretary** had been appointed as yet and was told no. It was my intention then, to raise that matter, along with the Introduction of the **National Crime Prevention Programme, NCPP**, using the Diego Martin Regional Corporation as one of the areas, in the **3 Pilot Corporations**, at the meeting, during Public Discussion Time.

Having seen the distress experienced by the Council, over my last 18 attendances, I was going to inform the Chairman of the **Presidential Power** in the Municipal Corporations Act, 21 of 1990, which gives the Chairman authority to take action to remedy this untenable situation. Diego Martin is not the only Corporation functioning without a **Corporation Secretary** since the last Local Elections, the City of Port of Spain, being the most prominent example of this neglect, to provide electors, burgesses and citizens with the best available staff, in this instance a **Corporation Secretary** who has to be an **Attorney at Law**, to assist the **Council** to perform its demanding duties effectively and advise on the clear interpretation of the governing Act, especially sections 9 and 10 of Part II, with his/her duties noted at section 39.

Section 37(1) states "**A vacancy n the office of a Chief Officer shall be reported forthwith to the Commission.**" ( meaning here the Statutory Authorities Service Commission established under the Statutory Authorities Act, as per Part 1, the Interpretation section.)

Section 37(2) states "**A vacancy in any office held by a Chief Officer shall be filled within three months after its occurrence, failing which, the failure to fill the vacancy shall forthwith be reported to the President by the Mayor.**" (meaning also the Chairman as per Interpretation)

Having stated at an earlier meeting, that the Bye elections to fill vacant Councillor positions is also controlled by provisions of the said Act, **at Section 27 and Section 29**, which also shows the **power of the President** to take action on being satisfied that the seat of a Councillor has become vacant, lamenting the fact that 2 Electoral Districts are without Councillor representation, one for 12 months and one for 9 months and requested from the Chair, if that occurs here in Diego Martin, who has to report the vacancy to the President. An answer was promised to be delivered.

Sadly, it took another party to start the preaction protocol process in April 2018, in order to have a declaration, that the vacant Councillor positions of Belmont East, in the Port of Spain City Corporation, after 9 months and Barataria, in the San Juan/Laventille Regional Corporation after 12 months, **be brought to the attention of the President, who shall issue a writ addressed to the Returning Officer of the appropriate electoral districts for the election (hereinafter referred to as a "bye-election") of a new councillor,** as per Section 29.

When Public Discussion time started at this 20<sup>th</sup> Meeting, I rose to make my comments and began with the absence of a Corporation Secretary and was informed by the Chairman that that position was filled on the 1st of July 2018 by Mr. Keron Maynard, who had been acting as a Legal Advisor for 3 months. I expressed my pleasure and relief and congratulated Mr. Maynard on his appointment, adding afterwards that he has a lot of work to do, knowing that the first thing will be, to have an up to date web site, since the present one still has **Kathy Christopher as the Chairman and Ms. Marva Carter as the Chief Executive Officer** and not very interactive, a situation that must be rectified immediately, if the Corporation is to participate fully in the **National Crime Prevention Programme** and engage many **volunteers** electronically, adding to the **duties of the Council**, without any additional allowance, for same.

My next concern was the **work effort** which will be required from the **Chairman, Aldermen and Councillors**, in facilitating the development of the **National Crime Prevention Programme**

and how that effort will affect their service to their electors, me included, with the **existing job conditions and state of affairs they encounter daily**. Volunteers will be discussed after.

Let me state here first and foremost, that this **National Crime Prevention Programme (NCPP)**, is a beautiful start in the right direction, since reaching to **the roots** will allow learning what **the branches** contribute to the problem and the best approach is getting as close to the ground as possible, something local government Aldermen and Councillors, being the first responder contacts to the electorate, can achieve by getting the opportunity to interface daily with their concerns, but **Crime Prevention** has a potent risk to life and limb, which has not yet been acknowledged. **Councillors** even have **offices** in their respective Electoral Districts, open and staffed daily, with designated office days to be present in office.

This arrangement, has tremendous potential to impact positively on **crime reduction efforts** and in my humble opinion, can allow the rolling out of a well coordinated Property Tax system, once the required **Local Government Reforms** are completed. The 503 Billion to be collected annually, also permits the establishing of a comprehensive data base of buildings, creating opportunities for monitoring growth and development, with the ability to intervene and stop adverse developments, before they become entrenched in the system. Reform is critical.

My first point references how these persons, Mayors, Chairmen, Aldermen, Councillors and Assemblymen are considered by Government.

In **Tobago**, the 12 elected Assemblymen and 4 nominated Councillors are salaried persons by the Tobago House of Assembly Act at Section 16 and the State accepts responsibility and liability for them, by they being so salaried. They pay income tax on the salary, health surcharge, and National Insurance contributions, benefitting from the NIB payments, which they become eligible for. No tax is paid on their allowances. Further, if they commit any public wrong in the line of duty, aka. a Tort (**doing something which harms someone else. Torts include wrongs such as negligence, nuisance, defamation, false imprisonment and trespass**), the State is sued, not them personally.

In **Trinidad**, all Mayors/Chairmen, Aldermen and Councillors are given an **honoraria** as stated in Act 21 of 1990, Part II, Section 17(1) which says "**The Mayor, Aldermen and Councillors shall receive such honoraria as may be prescribed out of the ordinary revenues of the Corporation in equal monthly instalments at the end of each month**" unquote.

(an **honorarium** is an exgratia payment i.e. a payment made without the giver recognizing themselves as having any liability or legal obligation to the person for his or her services in a volunteer capacity or for services which are not traditionally required. It is a common remuneration in schools or sports clubs for teachers or coaches). They pay Income tax, Health Surcharge but no National Insurance contributions, therefore not being eligible for any of the benefits the Insurance system provides. No tax is paid on their allowances.

Additionally, if in the line of duty they do any wrong to any member of the public, they can be sued in **Tort** personally and not the State. As if that is not enough cause for concern, now that a **Crime Prevention Function** is being added to all they oversee as per **Section 9 and 10 of the Act**, the monies paid to them as remuneration and allowances is half of what is paid in the **Tobago** example for doing the same work, supervising more of the electorate in their respective districts in Trinidad.

Chapter 21 of the **Salaries Review Commission, 98th Report** records, that the **Association of Local Government Officials** submitted **6 changes** to the existing conditions of work in 2013 and they were all rejected, one response being that the Act 21 of 1990 provides for the payment of an honoraria and the legislation has to be amended to address the change in the term. What the **Association** forgot to include in their submissions, was a comparison, in table form, to show the big difference in **work load**, by the 2 islands. Example listed below:-

<b><i>Location</i></b>	<b><i>Area</i></b>	<b><i>Total Population</i></b>	<b><i>Total Electorate</i></b>	<b><i>District Electorate</i></b>
<b>Tobago (1 Council, 12 Districts)</b>	<b>116 sq ml.</b>	<b>60,874</b>	<b>48,980</b>	<b>From 3,683 to 4,490</b>
<b>Chaguanas (1 Council, 8 Districts)</b>	<b>23 sq ml.</b>	<b>83,516</b>	<b>66,805</b>	<b>From 7,898 to 10,159</b>
<b>Diego Martin ( 1 Council, 10 Districts)</b>	<b>49 sq ml.</b>	<b>101,162</b>	<b>88,010</b>	<b>From 8,343 to 9,644</b>
<b>Trinidad (14 Councils and 137 Districts)</b>	<b>1,833 sq ml.</b>	<b>1.4 million</b>	<b>1,050,863</b>	<b>Councils From 28,960 to 174,104</b>

Now therefore, 5 years later, with **Crime Prevention** added to the Councils portfolio and the possibility of additional duties if a **Property Tax System** is properly introduced, getting Local Government rightly and fully involved and **Section V of the Act reinstated**, the Salaries Review Commission has to revise their opinion on the remuneration of Local Government officials, in my humble opinion and may recommend change in the status of all the officials to be full time.

Here again, I respectfully submit, the Mayor of Chaguanas and the Chairman of the Diego Martin Regional Corporation, can engage the **Power of the President** in the Administration of Act 21 of 1990 to remedy a situation, which can become explosive, a possible risk to life and limb and destroy the beautiful achievement of the goal of **Crime Prevention** and **Sustainable Development** in our beloved Trinidad and Tobago.

Section 17(1), (2) and (3) of the said Act, deals with Honoraria and Allowances of the Mayor, Aldermen and Councillors and section 18 states "**The President may, subject to negative resolution of Parliament, make regulations for the purposes of section 17,**" unquote.

We can reasonably assume from the general tone and substance of and from the before mentioned references to the Act 21 of 1990, that if a suggestion is made to the President that in the first instance, an **allowance of 5,000 TT dollars** be added to the monthly payment instalments of the **Mayor, Aldermen and Councillors** of the 2 Pilot Corporations, in the **National Crime Prevention Programme (NCPP)**, namely the **Chaguanas Borough and the Diego Martin Regional Corporation**, only a negative resolution of Parliament, can stop the implementation of any regulation to effect such an allowance to be paid.

Additionally, section 141 subsections (1) and (2) of the Constitution of the Republic of Trinidad and Tobago also indicates the **Power of the President** in the review of salaries and other conditions of service, noting the Salaries and Review Commission must get his or her approval to start any review and such report must be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet and for laying, as soon as possible thereafter, on the table of each house.

My final concern deals with the engaging of **Volunteers** from communities to partner with the Corporations to achieve **Crime Prevention**. Whereas, it is in our interest at community level, to get involved in the **National Crime Prevention Programme (NCPP)**, the State must acknowledge, that there is an inherent danger to life and limb, when any attempt is made to decrease the market of the crime sector, for their products and services and could cause violent responses towards the **Corporation Committees** and their accepted **Volunteers**.

I am therefore, proposing areas of possible intervention by and assistance from the State, with the lowest attached cost, when **Volunteers** have been chosen and their references validated, as listed below:-

1. Which Volunteers are still awaiting their payments from the National Insurance Board and what can be done immediately to rectify that?
2. Which Volunteers are still awaiting gratuity payments from the State and what can be done immediately to rectify that?
3. Which Volunteers still receive a Public Servant pension of 3,500 dollars and what can be set in place to rectify that, making the minimum Public Servant pension be 5,000 dollars and non-taxable income, like the National Insurance Pension?
4. Which Volunteers will rely heavily on the Internet System to participate and relate to the Corporation Committee and can they get a 50% to 75% decrease in their TSTT bills, in order to have some money to perform?
5. Which Volunteers will use extra Electricity and water Services to assist in their contribution and can they get a 50% to 75% decrease in their bills, in order to have some money to do the Crime Prevention work?
6. Which Volunteers will be assured that the Criminal Compensation Board will be sensitive and act quickly to their family claims for compensation, if they are murdered doing Volunteer work? My experience with the Board in my daughter's claim, due to her husband's violent death, for their son, was not accepted, because she was not living in a warring community with him and she had a protection order in force against him at the time.
7. Which Volunteers will be assured sensitive attention from the Family Services Division of the Ministry of Social Development and Family Services, when young children of murdered Volunteers, need urgent and long term assistance to survive? My experience with the Diego Martin Social Worker and my grandson has been very unsatisfactory, he receiving 3 years assistance and at 5 years, my daughter was informed that as a Nail Technician, she was getting 2,500 dollars a month and does not qualify for any assistance for him, although she informed the Social Worker that she was on contract in a Salon and was getting 30% of all income that comes in and he was starting big school in September, where in some cases, the Term fees will be raised from 1,200 dollars to 5,750 dollars.

While we do not expect honorariums, the State has at its disposal, mechanisms and opportunities to make our free Volunteer Service worthwhile, until the Counting Unremunerated Work Act of 1996, passed and assented to in November of 1996, but after 22 years to date has not been proclaimed, to allow the Director of the Statistical Office to do the work enshrined, although we had Gender Sensitive male Presidents for some time. Maybe our new female President will get the job done. I rest my case.

Signed.....Donald D. Berment, Specialist HSDS/NGA/DVC

***Housing and Settlement Development Sector/Natural Growth Architect/Domestic Violence Counsellor.***